



A BILL FOR AN ORDINANCE

RELATING TO AGGRESSIVE PANHANDLING.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Aggressive panhandling is a growing social and public safety concern across the country. In aggressive panhandling, individuals aggressively solicit money from others, particularly in places where cash is being handled and in areas that are confined and where such individuals are difficult to avoid. This type of panhandling is troublesome because it creates a sense of fear and intimidation. As a result, many jurisdictions have enacted legislation to prohibit aggressive panhandling in certain public places.

The purpose of this ordinance is to protect Honolulu residents, businesses, and tourists from disruption, fear, and intimidation due to aggressive panhandling near automated teller machines and check cashing facilities. It is not the intent of council to limit any type of constitutionally protected activity.

SECTION 2. Chapter 29, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Aggressive panhandling

Sec. 29-___.1 Definitions.

As used in this article, unless the context requires otherwise:

"Automated teller machine" means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

"Automated teller machine facility" means the area comprised of one or more automatic teller machines and any adjacent space that is made available to banking customers after regular banking hours.

"Aggressive panhandling" means engaging in the following behavior in the course of a solicitation of another person:



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- (1) Persisting in soliciting money from, following, or approaching a person after the person has given a negative response by either words or conduct to a solicitation for money;
- (2) Intentionally touching or causing physical contact with a person being solicited without that person's consent;
- (3) Intentionally blocking or interfering with the safe or free passage of a person exiting or entering a vehicle near an automated teller machine;
- (4) Using violent or threatening gestures toward a person being solicited;
- (5) Using profane or abusive language that is likely to provoke an immediate violent reaction from the person being solicited; or
- (6) Approaching or following a person being solicited in a group of two or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

"Check" means any check, draft, money order, or other instrument for the transmission or payment of money. "Check" does not include a traveler's check, foreign denomination, or foreign drawn payment instrument.

"Check cashing business" means any business engaged in the cashing of checks. This article shall not apply to:

- (1) Any person who is principally engaged in the bona fide retail sale of goods or services, and who, either as incident to or independent of the retail sale or service, from time to time cashes items for a fee or other consideration, where not more than \$2, or two percent of the amount of the check, whichever is greater, is charged for the service; or
- (2) Any person authorized to engage in business as a bank, trust company, savings bank, savings and loan association, financial services loan company, or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia.

"Donation" means any item of value, monetary or otherwise accepted by a panhandler.



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"Panhandling" or "soliciting" means any solicitation made in person upon any street or public place in the city in which a person requests an immediate donation from another person. The term does not include passively standing or sitting nor does it include performing music, singing, or conducting other street performances with a sign or other indication that money is being sought without any spoken request other than in response to an inquiry by another person.

"Public place" means any area to which the public is invited or permitted, and includes the public sidewalk or way.

Sec. 29-__2 Aggressive panhandling; where prohibited.

No person shall engage in aggressive panhandling within ten feet in any direction of any automated teller machine, automated teller machine facility, or check cashing business. The distance to a check cashing business or automatic teller machine facility shall be measured from the entrance or exit of the facility.

Sec. 29-__3 Penalty, summons or citation.

- (a) Penalty. Any person violating this article shall be subject to a fine of \$25.00 for each offense.
- (b) Summons or Citation.
 - (1) There shall be provided for use by authorized police officers, or authorized special police officers, a form of summons or citation for use in citing any violation of this article which does not mandate the physical arrest of the violator. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed as to include all necessary information to make the same valid within the laws and regulations of the state and city. Said summons or citation shall instruct such person to report to the violations bureau of the district court for the district of Honolulu. Each such violator may, within seven days after receipt of such summons, appear at such violations bureau and post a bail bond in such amounts as may be set by the administrative judge of the district court for appearance on the date as may be set out for such person to appear before the district court. Upon failure to appear on such



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date, said bail bond shall be deemed forfeited. Bail forfeiture by mail shall be permitted.

- (2) In every case when a citation is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district court may prescribe the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.
- (3) Every citation shall be consecutively numbered, and each carbon copy shall bear the number of its respective original.

Sec. 29-__4 Severability.

The provisions of this article are severable, and if any part of this article should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the article and the remainder of this article shall stay in full force and effect."



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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Charles Djou

DATE OF INTRODUCTION:

November 01, 2007
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy Corporation Counsel

APPROVED this 7th day of February, 2008.

[Signature]
MUFI HANNEMANN, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 08-2

BILL 81 (2007), CD1

Introduced: 11/01/07 By: CHARLES DJOU

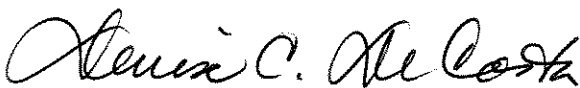
Committee: PUBLIC HEALTH,
SAFETY & WELFARE

Title: A BILL FOR AN ORDINANCE RELATING TO AGGRESSIVE PANHANDLING.

Links: [BILL 81 \(2007\)](#)
[BILL 81 \(2007\), CD1](#)
[CR-457](#)

COUNCIL	11/07/07	BILL PASSED FIRST READING AND REFERRED TO PUBLIC HEALTH, SAFETY AND WELFARE COMMITTEE.							
	APO E	CACHOLA Y	DELA CRUZ Y		DJOU Y		GARCIA Y		
	KOBAYASHI Y	MARSHALL Y	OKINO Y		TAM Y				
PUBLIC HEALTH, SAFETY & WELFARE	11/29/07	CR-457 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.							
PUBLISH	12/01/07	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.							
COUNCIL/PUBLIC HEARING	12/12/07	BILL PASSED SECOND READING AS AMENDED (BILL 81 (2007), CD1), CR-457 ADOPTED, PUBLIC HEARING CLOSED AND REFERRED TO PUBLIC HEALTH, SAFETY AND WELFARE COMMITTEE.							
	APO Y	CACHOLA Y	DELA CRUZ Y		DJOU Y		GARCIA Y		
	KOBAYASHI Y	MARSHALL Y	OKINO Y		TAM Y				
PUBLIC HEALTH, SAFETY & WELFARE	01/10/08	CR-28 (2008) – BILL 81 (2007), CD1 REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.							
COUNCIL	01/23/08	CR-28 (2008) WAS ADOPTED AND BILL 81 (2007), CD1 PASSED THIRD READING.							
	APO Y	CACHOLA Y	DELA CRUZ Y		DJOU Y		GARCIA Y		
	KOBAYASHI Y	MARSHALL Y	OKINO Y		TAM Y				

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.



DENISE C. DE COSTA, CITY CLERK



BARBARA MARSHALL, CHAIR AND PRESIDING OFFICER